

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

and

C & S WHOLESALE GROCERS, INC.,

Respondent.

CASE NO. OSH 2009-43

ORDER NO. 389

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board (Board), by conference call, on April 26, 2010, and attended by Herbert B.K. Lau, Deputy Attorney General, for Complainant, and Bryan Granger, for Respondent, IT IS HEREBY ORDERED THAT:

A. The issues to be determined at trial are:

1. Citation 1, Item 1: 29 CFR 1910.303(b)(1)

Whether the characterization as "Serious" and the associated penalty of \$1,100 of Citation 1, Item 1, resulting from Inspection No. 313076960, was valid and proper.

Citation 1, Item 1 alleged:

29 CFR 1926.303(b)(1) was violated because:

There were three instances of damaged areas of the conductors' outer, insulated jackets for three of the Ferro Five FR Series 36 battery charges. The damaged conductor jacket areas allowed bare copper wires to be exposed and not insulated, thus exposing employees to an electrical hazard.

2. Citation 2, Item 1: 29 CFR 1910.305(a)(2)(x)

Whether Citation 2, Item 1, resulting from Inspection No. 313076960, was valid and proper.

Citation 2, Item 1 alleged:

29 CFR 1910.305(a)(2)(x) was violated because:

There were multiple cracks to the outer jacket of a cigarette stamping iron's electrical cord, thus exposing employees to electrical shock. No bare wires were exposed.

3. Citation 2, Item 2: 29 CFR 1910.305(b)(1)(i)

Whether Citation 2, Item 2, resulting from Inspection No. 313076960, was valid and proper.

Citation 2, Item 2 alleged:

29 CFR 1910.305(b)(1)(i) was violated because:

The employees were exposed to electrical hazards from a metal double receptacle whose cover was not securely fastened in place and left a one-half inch opening under the cover.

4. Citation 2, Item 3: 29 CFR 1910.305(b)(2)(i)

Whether Citation 2, Item 3, resulting from Inspection No. 313076960, was valid and proper.

Citation 2, Item 3 alleged:

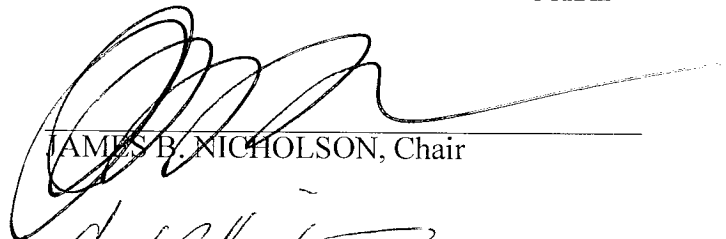
29 CFR 1910.305(b)(2)(i) was violated because:

A double receptacle was missing a face plate, thus exposing the users to the risk of inadvertent contact with the live parts inside.

- B. The deadline for the parties' final naming of witnesses is **May 27, 2010**. Each party shall provide a list of the names of witnesses it plans to call at trial, along with each witness's addresses and the general subject to which the witness will testify, to the other party and to the Board by this date.
- C. The parties may engage in discovery without prior motion or showing of good cause. The discovery cutoff date is **June 28, 2010**. The discovery cutoff is the date by which all responses to written discovery, including requests for admissions, shall be due and by which all depositions shall be concluded. The parties are advised to initiate discovery requests and notice depositions sufficiently in advance of the cut-off date to comply with this requirement.
- D. Trial in this matter is scheduled for **July 27 - 28, 2010 at 8:30 a.m.** in the Board's hearing room located at 830 Punchbowl Street, Room 434, Honolulu, Hawaii, 96813. The trial may be continued by the Board until completed.
- E. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, April 26, 2010.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SARAH R. HIRAKAMI, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General

Bryan Granger

James Warren (by fax)